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Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 20 October 2004 from the Permanent Mission of Malta to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Malta to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and in reference to the latter's note verbale dated 21 June 2004, has the honour to enclose herewith Malta's first report on the implementation of Security Council resolution 1540 (2004) (see annex).

04-57242 (E) 191104

Annex to the note verbale dated 20 October 2004 from the Permanent Mission of Malta to the United Nations addressed to the Chairman of the Committee

Malta's national report on the implementation of Security Council resolution 1540 (2004)

Introduction

Malta remains committed towards the elimination of all weapons of mass destruction and the implementation of confidence-building measures world wide and, in particular, the Mediterranean region. It has been the consistent policy of the Government of Malta not to manufacture or export arms, including conventional weapons and military equipment to other countries at all times.

The Government of Malta is committed to a policy, which opposes the proliferation of nuclear, chemical and biological weapons, and to the implementation of multilateral treaties, whose aim is to eliminate and prevent the proliferation of weapons of mass destruction. In this regard Malta undertakes all effective and necessary control measures aimed to prevent the illicit trafficking in nuclear, chemical and biological weapons and their means of delivery, and related materials, including the adoption of legislative measures and the enforcement of appropriate sanctions for the violation of such measures.

As Malta is a member of the European Union, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of the EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

In this regard, Malta is committed to the implementation of UNSC resolution 1540 (2004) and wishes to provide the following information.

International Instruments on Disarmament and Non-Proliferation, Legislative action and Enforcement action.

Malta is a State Party to the following International Treaties and Instruments on Disarmament and Non-Proliferation:

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction.

- Protocol for the Prohibition of the use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare.

- Treaty on the Non-Proliferation of Nuclear Weapons.

- Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water.

- Treaty on the Prohibition of the Emplacement of Nuclear weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof.

- Convention on the Physical Protection of Nuclear Material.

- Comprehensive Nuclear Test-Ban-Treaty.

- International Code of Conduct against Ballistic Missile Proliferation.

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, including Protocol I – Protocol on Non-Detectable Fragments, Protocol II - Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and other Devices, and Protocol III – Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons. On 24 September 2004, Malta deposited with the UN Secretary General, the Declaration of Consent to be bound by the Amendment to Article 1 of the 1980 Convention on CCW, Protocol II as amended and Protocol IV on Blinding Laser Weapons.

Malta has observer status in the Conference on Disarmament (CD) and follows closely proceedings of the negotiations and discussions within the CD on various disarmament issues and items. Malta is considering applying for membership to the Conference on Disarmament. Malta has always submitted its reports to the United Nations concerning data on military expenditure and exports/imports of conventional weapons.

Malta signed the **Convention on the Physical Protection of Nuclear Material** on 3 March, 1980 and deposited the instrument of accession on 16 October, 2003. Accession to this Convention required the establishment of a national regulatory authority to address issues regarding physical protection of nuclear material. A Radiation Protection Board was established in this regard to implement the provisions of the Nuclear Safety and Radiation Protection Regulations, published under Legal Notice No. 44 of 28 January, 2003. One of the roles of this Board is to issue authorization or otherwise regarding the import and export of nuclear material as well as transiting Maltese territory by land or through its airports and seaports. No person shall with regard to nuclear material export or authorize the export, import or transit of such material from and into Malta or through its airports and seaports, unless prior authorization has been granted by the Board, acting in co-ordination with the Malta Maritime Authority and the Department for Civil Aviation.

Under Part 2 of Legal Notice No. 44 no person shall intentionally commit,

a. an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
b. a theft or robbery of nuclear material;
c. an embezzlement or fraudulent obtaining of nuclear material;
d. an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
e. a threat:

    i. to use nuclear material to cause death or serious injury to any person or substantial property damage, or
    ii. to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

f. an attempt to commit any offence described in paragraphs (a), (b) or (c); and
g. an act which constitutes participation in any offence described in paragraphs (a) to (f).

Any person found guilty of any offence in terms of Part 2 shall be considered to have breached the provisions of the National Interest (Enabling Powers) Act and be liable to a fine not exceeding fifty thousand Maltese liri.

Malta signed the **Chemical Weapons Convention** in January 1993 and deposited its instrument of ratification on 28 April, 1997.

In order to implement the Convention, an Act was passed in Parliament, The Chemical Weapons Convention Act (Act No. V of 1997), to provide for the legal framework so as to enable Malta to fulfil the obligations of the Convention. The legal authority of the chemical Weapons Convention Act is the Minister of Foreign affairs, who is empowered to make any regulations under this Act which shall be consistent with the provisions of the Convention. One important objective of the Chemical Weapons Convention Act is the establishment of the National Authority whose main responsibility is the implementation of the Convention. Act No. V of 1997 – Ratification of the Chemical Weapons Convention and Legal Notice No. 216 of 2000 provide, inter alia, for the implementation of the provisions of the Chemical Weapons Convention.

The Act prohibits any person who:

(a) undertakes any activity which is prohibited by the Convention,

(b) assists or finances or encourages in any way, anyone to engage in any activity which leads to the production, development, acquisition, stockpiling, retaining or transferring of chemical weapons,

(c) uses chemical weapons, or is responsible for a chemical production facility which produces any part or the whole of a chemical weapon or a chemical agent which may be used in a chemical weapon,

(d) transfers or receives any chemical product listed in Schedule I to the Convention except for the purposes of research, medical, pharmaceutical or for protection purposes. In such cases, the quantities transferred should strictly be limited to those which can be justified for such purposes.

There are very heavy penalties for those who contravene the Chemical Weapons Convention Act. Persons who contravene the Act shall be guilty of an offence, and shall be liable on conviction to a fine of not less than Lm10, 000 and not more than Lm 100,000, or to an imprisonment for a term of not less than 18 months and not more than 15 years. The provisions of this Act apply to "any person in Malta, or to any citizen or permanent resident of Malta, whether in Malta or abroad".

Malta was elected a member of the Executive Council of the OPCW for the period May 1997 - May 1998, as one of the representatives of the Western European and Others Group (WEOG).

Three Regional Seminars on the implementation and universality of the Chemical Weapons Convention were held in Malta in June 1996, June 1999 and May 2004, in collaboration with the Technical Secretariat of the OPCW. A National Authority responsible for the implementation of the Chemical Weapons Convention, monitors all imports and exports of scheduled chemicals, in accordance with the relevant provisions of the Convention, in close co-ordination with the Department of Customs. Annual declarations are submitted to the OPCW Technical Secretariat in accordance with paragraph 8 of Article VI of the Chemical Weapons Convention and its Verification Annex. Maltese officials from the National Authority, Department of Health and the Armed Forces of Malta have attended seminars, courses and workshops organized by the OPCW.

Malta is a State Party to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases and of Bacteriological Methods of Warfare, and the 1972 **Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.**

Maltese legislation addresses biological threats primarily in the context of management of notifiable infectious diseases and epidemics. Malta has not found it necessary to enact new specific legislation to implement the obligations under Articles III and IV of the Convention, as existing legislation cover these provisions. Penalties exist for failure to comply with these regulations under the existing legislations consisting of heavy fines or a term of imprisonment.

The following Legal Acts have particular significance with regard to the implementation of the provisions of the Biological and Toxin Weapons Convention:

- **Prevention of Disease Ordinance (Chapter 36), as amended by various Ordinances and Legal Notices.**

  A Law to prevent the introduction and spread of infections, contagious and epidemic diseases affecting either mankind or animals.

- **Importation Control Regulations – Legal Notice 242 of 2004 as amended by L.N. 341 of 2004**

  This Law regulates the importation of certain goods, including chemicals, toxins, and radioactive products.

- **Control of Re-Exports of Supplies and Services Regulations - Government Notice 180 of 1956, as amended.**

  This Law regulates the transhipment of certain goods, including biological and chemical materials.

- **Dual-Use Items (Export Control) Regulations, 2004 – Legal Notice 416 of 2004, under the National Interest (Enabling Powers) Act (Cap.365).**

  These regulations implement the provisions of EU Council Regulation 1334/2000, and its subsequent amendments, for the setting up a Community regime for the control of exports of dual-use items and technology. Authorization shall be required for the export of the dual-use items listed in Annex I of the EU Council Regulation. This Dual-Use List implements internationally agreed dual use controls including the Wassenaar Arrangement, the Missile Technology Control regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group and the Chemical Weapons Convention. This List includes also Chemicals, Microorganisms and Toxins.

  Under Legal Notice No. 416 of 2004, no person shall export to any destination any dual use items whether or not listed in Annex I of the EU Council Regulation which that person has grounds for suspecting that the items are or may be intended, in their entirety or in part, for use in connection with the development, production, handling, operation, maintenance, storage, detection or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons, unless that person has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used. Regulations under legal Notice 416 of 2004 include the provision to control transits and transhipments and incorporate the introduction of a Community general export authorization.

- **Military Equipment (Export Control) Regulations, 2001 – Legal Notice 269 of 2001 and Government Notice No. 103 of 2004, under the National Interest (Enabling Powers) Act (Cap. 365).**

  These Regulations provide for the issue of export authorisations in relation to exports of items listed in Government Notice No. 103 of 2004. This List of items under the Military Equipment includes toxicological and biological agents adapted for use in war to produce casualties in humans or animals, as well as equipment designed or modified for the dissemination of such materials. The regulations also control the export of biocatalysts and biological systems, viruses or cultures of cells containing genetic information specific to the production of biocatalysts and any related technology.

- **Military Equipment (Export Control) (Amendment) Regulations, 2003 – Legal Notice No. 376 of 2003, under the National Interest (Enabling Powers) Act (Cap.365).**

  This Legal Notice provides for measures to control brokering activities which may involve the transfer of items listed in the List of Military Equipment Manual.

  The Maltese Health Authorities submit to the United Nations Department for Disarmament Affairs, data concerning Notifiable Infectious Diseases, in accordance with United Nations General Assembly resolutions and as agreed at the Third Review Conference of States Parties of the BTWC.

  Malta fully supports initiatives and proposals aimed at the reinforcement of the Biological and Toxin Weapons Convention and its implementation, through effective verification mechanisms, taking into consideration the risks of the acquisition of biological and chemical material by terrorists and terrorist groups. Malta is a State Party to all the international Conventions dealing with terrorism.

Export Control Regimes and Enforcement measures

In May and June 2004, Malta became a Participating State respectively in the **Nuclear Suppliers Group and the Australia Group.** In September and October 2003, Malta submitted its formal application to join respectively the Missile Technology Control Regime (MTCR) and the Wassenaar Arrangement. The decision of Malta to join these export control regimes is seen in the light of Malta's membership in the IAEA, OPCW, a subscribing State to the HCoC and international disarmament treaties, its strong support for international efforts to prevent the proliferation of WMD and in that Malta recognizes the important contributions by these regimes.

Malta has been host to a number of national and regional seminars and bi-lateral meetings on the illicit trafficking of nuclear material, the implementation of the Chemical Weapons Convention and the control of Dual Use Goods and Technologies and over the past years working relationships on disarmament issues have been developed and intensified with officials from the European Union, the

Organization for the Prohibition of Chemical Weapons, the International Atomic Energy Agency and the Missile Technology Control Regime.

On export control measures, Malta continues to ensure that international obligations are adhered to and that effective and practical measures are taken to control the import and export of dual-use goods and technologies. Malta imposes sanctions for violations of export control legislation.

To conform to the legal requirements of Occupational Health and Safety and the laws regulating Nuclear Safety and Radiation Protection, customs officers have undergone intensive practical training abroad to familiarize themselves with all aspects of container scanning. In June 2002, the Customs authorities took action to set up a new section at the Malta Freeport whose aim would be to control containerized transhipment cargo. This section is today known as the Container Monitoring Unit and has qualified staff members that act as certified Radiation Protection Supervisors and operate a mobile X-Ray Container Scanning Unit. Information on shipments is exchanged with other Customs agencies and such data is used for reference during the targeting of containers.

Indeed in these last few years, Malta has sought co-operation and assistance from a number of countries including the United States and Western Europe, to shore up and enhance its capabilities in this field. Furthermore, it has requested and obtained expert advice from International Organisations, including the IAEA, to examine carefully and take remedial action to combat the illicit trafficking of armaments, particularly weapons of mass destruction.

Maltese officials from the Armed Forces of Malta, the Customs Department and the Malta Police Force have also attended a number of training programmes on illicit trafficking in nuclear and other radioactive materials and chemical weapons offered by the IAEA and OPCW. Officials from the Customs and Armed Forces have also attended, in an observer capacity, ground and maritime exercises within the context of the Proliferation Security Initiative.

The following is the complete list of Legislation and Regulations on export-controls that are presently in force in Malta:

1. Act No. V of 28 April 1997 - to authorise the Government of Malta to ratify the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, to provide for the implementation by Malta of its provisions and for Malta's membership of the Organization for the Prohibition of Chemical Weapons, and for matters connected therewith or ancillary thereto. This Act was amended by Legal Notice No. 216 of 2000.

2. National Interest (Enabling Powers) Act (Cap.365) – Dual-Use Items (Export Control) Regulations, 2004 published as Legal Notice 416 of 2004 on 20 September 2004. Regulations under Legal Notice 416 of 2004 include the provision to control transits and transhipments and incorporate the introduction of a Community general export authorization.

3. National Interest (Enabling Powers) Act (Cap.365) – Military Equipment (Export Control) Regulations, 2001 published as Legal Notice 269 of 2001 on 1 November 2001.

4. National Interest (Enabling Powers) Act (Cap. 365) – Military Equipment (Export Control) Regulations, 2001 – List of Military Equipment published as Government Notice No. 103 on 5 February 2004.

5. National Interest (Enabling Powers) Act (Cap. 365) – Comprehensive Nuclear-Test Ban Treaty Regulations published as Legal Notice No. 156 of 2001.

6. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and their Destruction Regulations, published as legal Notice 97 of 2001.

7. National Interest (Enabling Powers) Act (Cap. 365) – Nuclear Safety and Radiation Protection Regulations, 2003 published as Legal Notice No. 44 of 2003.

8. Government Notice 751 published on 22 August 2003 – Amendment to the manual entitled "List of Military Equipment" in terms of Regulation 2 of the Military Equipment (Export Control) Regulations, 2001.

9. Legal Notice No. 376 published on 28 November 2003 - This Legal Notice provides for measures to control brokering activities which may involve the transfer of items listed in the List of Military Equipment Manual.

Prior to Malta's membership to the European Union on 1 May 2004 and its submission of formal application to become a member in all main export-control regimes, measures were taken as a priority, to align and harmonize the Maltese legislative framework on export-control with that of the EC Regulation 1334/2000 on Dual Use Goods and its amendments, as well as the European Union Code of Conduct on Arms Control and the international export-control regimes. The Maltese Government has also transposed the provisions of EU Council Position 2003/468/CFSP on the control of arms brokering, by issuing Legal Notice No. 376 of 2003, published on 28 November 2003 entitled Military Equipment (Export Control) (Amendment) Regulations, 2003.

The Dual-Use Items (Export Control) Regulations, 2004, implement the provisions of European Union Council Regulation (EC) No: 1334/2000 regarding the setting up of a Community regime for the control of dual-use items and technology as amended by Council Regulations 2889/2000 of 22 December 2000, 458/2001 of 6 March 2001, 2432/2001 of 20 November 2001, 880/2002 of 27 May 2002, 149/2003 of 27 January 2003 and 1504/2004 of 19 July 2004. The local regulations provide for the issue of export licences in connection with the dual-use items and related software and technology, as specified in Annex I of the amended EU Regulation. The list of controlled items comprise all the items covered by the international non-proliferation regimes, namely, the *Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group and the Chemical Weapons Convention.* This list is divided into 10 categories including nuclear materials,

chemicals, microorganisms and toxins, materials processing, electronics, computers, telecommunications and information security systems, sensors and lasers, navigation and avionics, marine, propulsion systems and space vehicles.

Exports of items not included in this list would also require a licence if:

(i) the exporter has information that the items which he proposes to export may be used in relation to the production of chemical, biological or nuclear weapons (the 'catch all' clause);

(ii) if the items intended to be exported consist of parts or components of military items, which were previously exported without an authorization, or in violation of the conditions imposed in the authorization;

(iii) if the purchasing country or the country of destination is subject to an arms embargo decided by a Common Position or joint action adopted by the Council of the European Union, or by a binding resolution of the Security Council of the United Nations, or a decision of the Organisation for the Security and Co-operation in Europe;

(iv) if the items intended to be exported may affect the public security or human rights.

An export licence would also be required in the case of exports consisting of the transmission by electronic media of software or technology or for the provision of technical assistance in connection with the production of weapons of mass destruction.

Export licences may be of three types:

- ◊ individual – covering the export of a specified dual-use item to a specified consignee;
- ◊ global – for the export of a number of specified dual-use items to specified consignees in one or more specified countries; or
- ◊ general - the regulations provide for the granting of a Community general export authorization, whereby, no export licences would be required for the export of the less sensitive dual-use items to certain EU trading partners (namely, Australia, Canada, Japan, New Zealand, Norway, Switzerland and United States of America). The intra-Community transfers of the less sensitive dual-use items are not subject to export licences.

In applying for an export licence, exporters are bound under penalty to provide the correct information required regarding the description of the items being exported, the particulars of the consignee and end-user, and the end use of the items. Also, exporters are bound to submit additional information which they deem to be relevant. Exporters are also obliged to keep records of exports made under an export licence for a period of three years following the date of export and to allow, if necessary, inspection of such records by any authorized public officer. In addition, exporters are bound to comply with any conditions or requirements that may be imposed in the granting of an export licence.

These regulations apply to any person, irrespective of his nationality, in Malta and to any Maltese citizen abroad. Persons contravening these regulations are liable to a maximum fine of Lm 50,000 or up to 5 years imprisonment.

The Military Equipment (Export Control) Regulations, which were enforced on 1 January 2002, provide for the issue of export licences in relation to arms, weapons, ammunition, explosives, toxicological agents and other military equipment, including military vehicles, vessels of war, aircraft and electronic equipment. The regulations are in line with the EU Code of Conduct on arms exports. Only individual licences are issued for the export of military equipment.

As in the case of the Dual-Use Items (Export Control) Regulations, exporters of military equipment are bound under penalty to provide complete and correct information when applying for a licence, and to comply with any conditions or requirements imposed on the licence. In this case also, the regulations apply to all nationals in Malta and to Maltese citizens abroad.

On the other hand, the regulations do not apply to exports of military equipment by the Armed Forces of Malta under certain special circumstances (e.g. in relation to certain military operations such as peace-keeping operations, distress and emergency situations and international military competitions) and for purposes of repair or testing of such military equipment.

Contraventions against the Military Equipment (Export Control) Regulations attract a similar penalty of Lm 50,000 or a 5 years imprisonment.

Applications for export authorizations for dual-use items and military equipment are processed in the first place by the technical staff at the Commerce Division and are then referred for comments to the Ministry of Foreign Affairs, the Armed Forces of Malta and the Police Department according to the nature of goods being exported and the country of destination.

Comments in relation to the specific issues raised by UNSC resolution 1540

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Malta does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of

delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

- These obligations are covered by the Chemical Weapons Convention Act, the Criminal Code Act., Nuclear Safety and Radiation Protection Regulations (Legal Notice No. 44 of 2003).

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Refer to above measures. Malta does not possess, manufacture or produce any such materials.

(b) Develop and maintain appropriate effective physical protection measures.

Same as above.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

The Customs Ordinance, Chapter 37 of the Laws of Malta, empowers the Customs Department to board and search vessels and aircraft, and seize any misdeclared or undeclared goods, where applicable. The Customs Ordinance requires the submission of information and reports of imported and exported cargo. The Ordinance also regulates the submission of Customs entries for imported and exported goods.

The European Union Community Customs Code has also been transposed into Maltese legislation, and forms an integral part of the Fourth Schedule of the Import Duties Act, Chapter 337 of the Laws of Malta.

The Malta Customs Department risk assesses all import entries through an electronic paperless system, and targets relevant importation for examination. The Department also requires entries for exported goods, which are sealed and shipped under Customs supervision.

Malta Customs employs three fixed pedestal type radiation pillars at the three main entry points into the Island, supported by a number of radiation pagers utilised by boarding and examination officers. A container scanner, and two x-ray vans are also used continuously to assist Customs officials on targeted operations.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

Section 84 of the Customs Ordinance lays down that the provisions of the Ordinance apply to goods unshipped in transit, and for transshipment, as far as applicable.

The Customs Container Monitoring Unit risk manages transshipment manifests at the Freeport, selecting high risk containers for examination by the VACIS (vehicle and cargo inspection system) container scanning team. Eventual physical checks of containers are effected where deemed necessary.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons.

Malta is a State Party to the Nuclear Non-proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). Malta is an active member of the IAEA and the OPCW and participates in meetings of the States Parties to the BTWC with the objective of strengthening the BTWC.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Malta is today a member of the Nuclear Suppliers' Group and the Australia Group and has applied for membership to join the Missile Technology Control Regime and the Wassenaar Arrangement. Measures are taken by the Maltese pertinent authorities to regularly update detailed national export control lists.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of Security Council resolution 1540 (2004).

In view of its limited human and financial resources Malta would not be in a position to offer such assistance, but is prepared to share its experience in this field of implementation, if requested.

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

As an EU member State, Malta supports and implements:

- EU Common Position, November 2003, on the universalisation of the main multilateral non-proliferation agreements (CWC, BTWC, NPT).
- Model non-proliferation clause in EU-third country mixed agreements.
- EU demarches for non-State parties to adhere to multilateral treaties with a view to universalization of these treaties and to strengthen such treaties to prevent the proliferation of nuclear, biological and chemical weapons.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

See above regarding reference to adoption of legislation and regulations which are in force in Malta.

(c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

As a State member of IAEA and OPCW, Malta fully supports the activities, aims and objectives of the IAEA and the OPCW, and has always paid its annual financial contribution towards the IAEA and OPCW budgets regularly and on time. Malta has supported the aims and activities of both IAEA and OPCW through the joint organization in Malta of both regional and international conferences, seminars and workshops concerning the universalization, adoption and implementation of the CWC, and IAEA activities and assistance programmes.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws.

- Legal Notices and Government Notices concerning the implementation of provisions for the implementation of legislation and regulations relating to the CWC are available in hard copy and on Malta Government websites.

- The National Authority for the Implementation of the Chemical Weapons Convention keeps contact with chemical industries operating in Malta.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

Malta remains committed towards the elimination of all weapons of mass destruction and continues to participate and promote dialogue and co-operation in various international activities, aimed at opposing and countering the proliferation of such weapons and their means of delivery.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The Malta Customs Department co-operates with other law enforcement agencies in other states through various mutual assistance programmes. The Department also actively participates in international forums; and conferences, seminars and technical assistance activities organised by multinational agencies and foreign governments. The Department has also participated in the Proliferation Security Initiative activities as an observer.

Malta Customs Department participates in bilateral initiatives and programmes as part of Maltese delegations.

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 20 October 2004 from the Permanent Mission of Belize to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Belize to the United Nations presents its compliments to the Chairman of the Committee of the Security Council established by resolution 1540 (2004) and has the honour to transmit herewith the national report of the Government of Belize pursuant to said resolution.

The Permanent Mission of Belize would be grateful if the present letter and its annex could be circulated as an official document of the Security Council.

04-57279 (E) 191104

Annex to the letter dated 20 October 2004 from the Permanent Mission of Belize to the United Nations addressed to the Chairman of the Committee

Report of the Government of Belize pursuant to Security Council resolution 1540 (2004)

Belize is pleased to report to the Security Council Committee established pursuant to resolution 1540 (2004) of its actions in regard to the non-proliferation of nuclear, chemical or biological weapons particularly as it relates to the implementation of said resolution.

At the outset, Belize confirms that it does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Belize is firmly committed to international efforts for arms control and disarmament and the non-proliferation of weapons of mass destruction. Accordingly, Belize is a party to major multilateral treaties relating to nuclear, chemical and biological weapons, including:

- Treaty on the Non-Proliferation of Nuclear Weapons
- Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean
- Comprehensive Nuclear-Test-Ban Treaty
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction

At the national level, Belize is in the process of developing legislation in particular to give effect to the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction. The proposed Chemical Weapons (Prohibition) Bill makes it an offence to develop, produce or use chemical weapons; or to assist with such activities; and otherwise regulates chemical weapons.

The Bill also establishes domestic control to prevent the proliferation of chemical weapons. In particular, the Bill provides that those dealing with toxic chemicals provide information to the Government and maintain appropriate records. The Government may also seek information or authorize inspections of facilities. Likewise, the Bill has provisions concerning national control lists.

To date, Belize has not yet enacted legislation to give effect to the remaining multilateral treaties relating to disarmament and non-proliferation. The matter of capacity is a recurrent issue.

Nonetheless, Belize remains engaged in dialogue and cooperation on non-proliferation issues. Within the larger context of the Proliferation Security Initiative, Belize is presently negotiating with the United States of America for a bilateral agreement on cooperation to suppress the proliferation of weapons of mass destruction, their delivery systems and related materials by sea.

20 October 2004

Enclosure*

First report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning Al-Qaida and the Taliban and associated individuals and entities

1. The Chairman noted that the main purpose of the meeting was to discuss the **first report submitted by the Analytical Support and Sanctions Monitoring Team** established pursuant to resolution 1526 (2004). He encouraged Committee members to think about how they could provide direction to the Monitoring Team for its future work, as stipulated in the Annex to resolution 1526 (2004), whilst also respecting the Team's independence. In particular, members might consider: the **type and quality of report** they expected from the Team in December; which **case-studies** the Team might undertake; and which issues the Team should explore in-depth. One example of such an in-depth issue was the **written assessment** due by the end of October of Member States' reports submitted pursuant to resolution 1455 (2003). The Chairman hoped to release the report as soon as possible and he proposed convening a joint press-conference with the Coordinator of the 1526 Monitoring Team, in order to present the report to the press.

2. Introducing the report, Mr. Richard Barrett (Coordinator of the 1526 Monitoring Team) noted that the document aimed to set the scene for the Team's subsequent work. Despite the extent of work undertaken in the field of counterterrorism, Al-Qaida and associated terrorist groups were very much "alive and kicking". The nature of the terrorist threat had evolved considerably and there was thus a need to ensure that the response evolved accordingly. The report contained observations relating to the utility of the Consolidated List of individuals and entities associated with Al-Qaida and the Taliban, as well as in relation to the application of the financial sanctions, arms embargo and travel ban imposed against Al-Qaida and the Taliban. With respect to the **Consolidated List**, there was a pressing need to improve the quality of the List and to engage the international community so as to achieve greater cooperation in listing relevant individuals and entities. With respect to **financial sanctions**, while much had been achieved gaps still remained in the areas of alternative remittance systems, non-profit organizations, and cash couriers. With respect to the **arms embargo** and the **travel ban**, it was necessary to explore why there had as yet been no reported instance either of those measures having prevented listed individuals and entities from gaining access to prohibited arms and related materiel or from crossing international borders.

3. The Coordinator then stressed that it was important for the Monitoring Team to continue to work with Member States and external agencies. The Team was exploring how to maximize such cooperation. Possibilities included undertaking country visits and facilitating the provision of technical assistance. There was also a need to consider how Member States might better inform the 1267 Committee of progress achieved in the sanctions implementation. One idea was to ensure that the questionnaires forwarded to Member States were better tailored. It was also important to foster a greater sense of shared responsibility in the effort to counter the threat of terrorism, including by injecting increased dynamism into the work of the Monitoring Team and the 1267 Committee.

4. Many delegations (Russia, United States, China, Spain, Chile) shared the Team's assessment that the nature of the threat posed by Al-Qaida and the Taliban and associated individuals and entities had evolved and that the response should evolve accordingly. A number of delegations (Russia, United States, China, the United Kingdom, Germany, Spain, Romania) also agreed that there should be greater cooperation and coordination

* Annexes are on file with the Secretariat and are available for consultation.

between the 1267, 1373 and 1540 Committees. Germany encouraged the Monitoring Team to focus upon improving the quality and quantity of reports submitted by Member States concerning sanctions implementation. France, echoed by Brazil and Chile, queried why the Team sought (as outlined in para 85 of its report) to bring together a small group of professionals from States with experience, expertise and success in dealing with the problem of terrorism, as the Team would in any case be undertaking country visits. Spain suggested that the currency amounts contained in the report's Annex on frozen assets could be presented in one standardised currency. Referring to the issue of terrorist financing, Chile noted that, while the money required to undertake a terrorist act could be minimal, substantial funding might be needed to sustain the planning and logistics underpinning such acts. Additional attention could thus be focused upon tracing that aspect of terrorist financing.

5. In comments addressing the use of the **Consolidated List**, China, supported by Germany, observed that there was a need to strengthen the List, including by improving the accuracy of the identifying information contained on the List and by increasing the number of Member States that were proposing amendments. The United Kingdom, echoed by Brazil, stressed that in order to be inscribed on the List, individuals and entities must have a genuine link with Al-Qaida and the Taliban. Spain expressed concern that encouraging a substantial increase in the number of names on the List might actually undermine its credibility and effectiveness. Pakistan cautioned that if criteria for listing were applied too loosely there was a danger of emboldening and strengthening the ranks of entities that were not in fact closely associated with Al-Qaida and the Taliban. Germany emphasised that there should be greater due process in the listing and delisting of individuals and entities.

6. Touching upon the application of the **travel ban**, a number of delegations (Russia, China, Benin, Spain, Chile) suggested that greater guidance could be provided to Member States concerning what they should do if they were to detain listed individuals. China noted that international law should be taken into account in providing such guidance. Benin, supported by Spain, observed that there was a need to foster greater cooperation between States with respect to the extradition of detained individuals. The Security Council could play a role by encouraging States to become signatories to extradition treaties. Chile suggested that the matter of asylum should also be explored more closely.

7. Responding to the points raised, the Coordinator agreed that the Monitoring Team could focus further attention on the issues of detention and extradition. He also clarified that the proposal to consult additional national professionals in the area of sanctions implementation aimed to keep to a minimum the practice of drawing upon press reports. Rather, the objective was to collect new data from these practitioners and thus to generate fresh insights and recommendations for improving sanctions implementation. Referring to concerns regarding the potential drawbacks of encouraging greater Member State participation in the listing process, he stressed that the definition of Al-Qaida should remain loose in order to ensure that the group's operations were circumscribed to the maximum extent possible. Once the Coordinator had concluded, the Chairman proposed

that the report should be released in its current form to non member States and to the mass media. No objections were raised to the suggested course of action.

8. Under other matters, the United Kingdom noted that it had proposed an amendment to the letter concerning the Committee's response to the **notification by Malaysia concerning an exception** from the financial sanctions in accordance with resolution 1452 (2002). The amendment sought to reaffirm that, as a matter of principle, the Committee should receive sufficient information with regard to credit card expenses to ascertain whether an exception should be permitted under paragraph 1(a) or 1(b) of that resolution. The Chairman noted that the earlier **notification by Germany concerning an exception** in accordance with resolution 1452 (2002) had been approved under the no-objection procedure. The Committee then discussed how to process the 70 names forwarded for inscription on the List through a **communication from Libya**. The Secretariat noted that it had asked for the relevant documents to be translated from the original Arabic within a period of 14 days. Some members suggested that in future Libya and other Member States might be encouraged to submit names in batches, so as not to overwhelm the Committee. Pakistan observed, however, that the Committee should be careful not to dissuade Member States from submitting new names for inscription on the List and noted that Libya had fulfilled its responsibilities in that respect.

9. Before concluding, the Chairman informed the Committee that he was scheduled to give a **briefing to the Security Council** on 13 September and referred to future **travel plans** regarding trips to be undertaken by the Monitoring Team, as well as by himself. In addition he also provided an update on the status of consideration of the Committee's revised **guidelines** and noted that he intended to extend an **invitation** to address the Committee to a well-known expert on Al-Qaida, Professor R.K. Gunaratna (Institute for Defense and Strategic Studies, Singapore).

Jeremy Farrall
25 August 2004

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 21 October 2004 from the Permanent Mission of Singapore to the United Nations addressed to the Chairman of the Committee

Pursuant to Security Council resolution 1540 (2004), I am pleased to submit to you and to the Committee established pursuant to that resolution the attached report of the Government of the Republic of Singapore (see annex).

(*Signed*) Vanu Gopala **Menon**
Ambassador Extraordinary and Plenipotentiary

04-57422 (E) 031104

Annex to the note verbale dated 21 October 2004 from the Permanent Mission of Singapore to the United Nations addressed to the Chairman of the Committee

National report of Singapore on the implementation of Security Council resolution 1540 (2004)

1. Singapore supports international efforts for the non-proliferation of weapons of mass destruction. Singapore had signed on early to various non-proliferation regimes: the Non-Proliferation Treaty (in 1976), the Biological Weapons Convention (in 1975), the Chemical Weapons Convention (in 1997) and the Comprehensive Test-Ban Treaty (in 2001).

National legislative measures

2. Singapore has in place various legislative measures to counter the proliferation of weapons of mass destruction. These are the Strategic Goods (Control) Act, the Regulation of Imports and Exports Act, the Chemical Weapons (Prohibition) Act, the Arms Offences Act and the Arms and Explosives Act.

Strategic Goods (Control) Act

3. As part of its efforts to help curb the proliferation of weapons of mass destruction, Singapore implemented in January 2003 a robust and enhanced export control system that would support global efforts to curb the proliferation of weapons of mass destruction and fight international terrorism. The Strategic Goods (Control) Act controls the transfer and brokering of strategic goods, strategic goods technology, goods and technology capable of being used to develop, produce, operate, stockpile or acquire weapons capable of causing mass destruction, and of missiles capable of delivering such weapons, and for purposes connected therewith. A copy of the Act is available at www.stgc.gov.sg.

4. The Act covers a wide range of transactions. In addition to controlling the export, re-export, trans-shipment and transit of goods related to weapons of mass destruction, it also includes brokering controls, and controls in intangible transfers of technology. The control list is drawn from the major international regimes and covers munitions, biological toxins, chemical precursors and sensitive dual-use items. Most important, there is a catch-all provision that allows Singaporean authorities to enforce export control laws on items that are intended for weapons of mass destruction end use but have not been included in the control list. Wide powers are also given to law enforcement officers for arrest, search and seizure. The Act imposes heavy penalties for parties involved in transferring or brokering the transfers of strategic goods or technology. A first-time offender can be subjected to a maximum fine of S$ 100,000 (or even more, depending on the value of the goods or technology concerned) or a maximum sentence of two years' imprisonment, or both.

5. Singapore Customs is the National Authority for the implementation of the Strategic Goods (Control) Act. Singapore Customs processes all permit applications, registers and audits arms brokers, conducts industry outreach and public awareness programmes and enforces the Act and its Regulations on violations of strategic goods control. Singapore Customs actively acts on timely and reliable intelligence

on potential shipments that violate Singaporean laws. Based on risk management, checks are conducted on relevant documents, such as the end-user certificates, bills of lading, invoices and import licences issued by the competent authority of the final destination country.

6. Singapore is continually monitoring its system and will make further refinements to it, be they in terms of control lists or procedures, where necessary. Singapore Customs has been conducting regular outreach sessions to educate industries on the Singaporean strategic goods control system. Participants are also reminded of the need to exercise due diligence, particularly with regard to goods originating from the countries and entities that are listed in the lists compiled under the relevant Security Council resolutions, and unilateral lists of certain countries such as the United States of America, Japan and members of the European Union. The aim is to sensitize the community to the export control system of Singapore and gradually to ease them into it as the system continues to be refined.

Regulation of Imports and Exports Act

7. The Regulation of Imports and Exports Act and its Regulations provide the framework under which Singapore regulates and controls general imports and exports. It also regulates controls on countries under Security Council embargo and certification of the Import Certificate and Delivery Verification system which regulates controlled items from originating countries for end-users in Singapore.

Chemical Weapons (Prohibition) Act

8. The Chemical Weapons (Prohibition) Act gives effect to the Chemical Weapons Convention. It prohibits, among other things, the use, development, production, acquisition and transfer by non-State actors of any chemical weapon, as well as any attempt to assist, encourage or induce another party to participate in these schemes. The punishment for any person who contravenes such prohibitions with respect to chemical weapons is imprisonment for a term which may extend to life imprisonment and a fine not exceeding $S 1 million (sect. 8 (1) of the Act).

9. The Chemical Weapons (Prohibition) Act is administered by the National Authority (Chemical Weapons Convention). The National Authority processes licence applications of controlled chemicals and facilitates inspection visits by the Organization for the Prohibition of Chemical Weapons.

Arms Offences Act

10. The Arms Offences Act criminalizes the unlawful possession of arms and ammunition, the carrying and use of arms and trafficking in arms. These arms would include firearms, bombs, or grenades and any component parts. The penalties for these offences are heavy, with the maximum sentence being a death penalty for the offences of using arms or trafficking in arms.

Arms and Explosives Act

11. The Arms and Explosives Act provides the framework for Singapore to regulate the manufacture, use, sale, storage, transport, importation, exportation and possession of arms and explosives.

International cooperation

12. In addition to the legislation described above, Singapore is also an active participant in various multilateral operational arrangements that enhance its efforts to counter any possible proliferation of weapons of mass destruction. The first is the Container Security Initiative (CSI) which was designed to protect containerized shipping from exploitation by terrorists. Singapore was the first Asian country to sign the Declaration of Principles for CSI with the United States on 20 September 2002. Under CSI, containers destined for United States ports may be selected for checks in Singapore ports using the Vehicle and Cargo Inspection System for weapons of mass destruction. As part of the CSI effort, Singapore has introduced new equipment like radiographic scanners into two of our port terminals. Its port authorities also organized several dialogue sessions involving major shippers, shipping lines, logistics companies and the United States Customs Service to discuss CSI and related initiatives. CSI screening commenced on 17 March 2003.

13. The second effort is the Proliferation Security Initiative (PSI), an operational arrangement aimed at preventing the proliferation of weapons of mass destruction, their delivery systems, and related materials at sea, in the air or on land, in accordance with national and international laws and frameworks. Singapore joined the PSI core group in March 2004, since the proliferation of weapons of mass destruction is a particular and major threat to a small country like Singapore. Singapore has participated actively in the PSI plenary and operational experts meetings. To hone its operational readiness and effectiveness, Singapore has also taken part in various PSI interdiction exercises since January 2004. It has identified its policy and operational points of contact as the Ministry of Foreign Affairs and the Ministry of Defence, respectively.

Cooperation with international organizations

14. Singapore jointly hosted the inaugural Asian National Authorities Meeting with the Organization for the Prohibition of Chemical Weapons, from 29 to 31 October 2003, which promoted cooperation and awareness of the Chemical Weapons Convention in the region. In April 2003, the Centre for Chemical Defence at DSO National Laboratories became the first in South-East Asia to be designated by the Organization for the Prohibition of Chemical Weapons to test for the presence of chemical warfare agents and related compounds.

15. Singapore assumed a seat on the Board of Governors of the International Atomic Energy Agency, beginning September 2004 for a period of two years.